



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2011-0455-201131(a); FRL-9621-8]

Approval and Promulgation of Implementation Plans;

North Carolina: Approval of Section 110(a)(1) Maintenance Plan for the Greensboro-Winston-Salem-High Point 1-Hour Ozone Maintenance Area to Maintain the 1997 8-Hour Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the North Carolina State Implementation Plan (SIP), submitted to EPA on April 13, 2011, with supplemental information submitted on May 18, 2011, by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), through the Department of Air Quality. The revisions propose to modify North Carolina's SIP to address the required maintenance plan for the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the Greensboro-Winston-Salem-High Point, North Carolina 1-hour ozone maintenance area, hereafter referred to as "the Triad Area." The Triad Area is comprised of Davidson, Forsyth, and Guilford and a portion of Davie County. This maintenance plan was submitted to ensure the continued attainment of the 1997 8-hour ozone NAAQS through the year 2018 in the Triad Area. EPA is approving these SIP revisions pursuant to section 110 of the Clean Air Act (CAA or Act). The submitted maintenance plan meets all of the statutory and regulatory requirements, and is consistent with EPA's guidance.

DATES: This rule is effective on [Insert date 60 days from date of publication in the Federal Register] without further notice, unless EPA receives relevant adverse comment by [Insert date 30 days from date of publication in the Federal Register]. If EPA receives such comment, EPA will publish a timely withdrawal in the Federal Register informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2011-0455 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: benjamin.lynorae@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: EPA-R04-OAR-2011-0455, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2011-0455. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information

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Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth

Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo or Jane Spann, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Zuri Farngalo may be reached by phone at (404) 562-9152 or by electronic mail address farngalo.zuri@epa.gov. Jane Spann may be reached by phone at (404) 562-9029 or by electronic mail address spann.jane@epa.gov.

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I. Background

In accordance with the CAA, the Triad Area was designated nonattainment for the 1-hour ozone NAAQS on November 6, 1991. *See* 56 FR 56694. The designation for the Triad Area was effective on January 6, 1992. *See* 60 FR 7124.

On November 13, 1992, the State of North Carolina, through NCDENR, submitted a request to redesignate the Triad Area to attainment for the 1-hour ozone NAAQS. Included with the 1-hour ozone redesignation request, North Carolina submitted the required 1-hour ozone monitoring data and maintenance plan ensuring the Area would remain in attainment for the 1-hour ozone NAAQS for at least a period of 10 years (consistent with CAA 175A(a)). The maintenance plan submitted by North Carolina followed EPA guidance for maintenance areas, subject to section 175A of the CAA.

On September 9, 1993, EPA approved North Carolina's request to redesignate the Triad Area (58 FR 4731) to attainment for the 1-hour ozone NAAQS. The maintenance plan for the Triad Area became effective on November 8, 1993. North Carolina provided an update to the Triad Area maintenance plan on April 4, 2004, in accordance with section 175(A)(b), to extend the maintenance plan to cover additional years such that the entire maintenance period was for at least 20 years after the initial redesignation of this Area to attainment. EPA approved North Carolina's update to the Triad Area's maintenance plan on September 20, 2004. *See* 69 FR 56163.

On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase 1 Rule for implementation of the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase 1 Rule). In the April 30, 2004, rulemaking entitled "Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas with Deferred Effective Dates" (69 FR 23858), EPA designated every county in the United States unclassifiable/attainment or nonattainment for the new 8-hour ozone NAAQS. Counties in and around the Triad Area (also known as the Greensboro-Winston Salem-High Point Area) were designated as nonattainment with a deferred

effective date as part of the Early Action Compact (EAC) program. (For more information on the EAC¹ Program, see, <http://www.epa.gov/ttn/naaqs/ozone/eac/index.htm>.) The Greensboro-Winston Salem-High Point nonattainment-deferred EAC Area² for the 1997 8-hour ozone NAAQS (which includes the entire Triad Area) is comprised of Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Randolph, and Rockingham counties. One year after the effective date of EPA's designations for the 1997 8-hour ozone NAAQS (i.e., June 15, 2005), the 1-hour ozone NAAQS was revoked for most areas. However, the 1-hour ozone NAAQS was not revoked for previous 1-hour ozone nonattainment areas that were currently 8-hour nonattainment-deferred EAC areas, such as the Greensboro-Winston Salem-High Point EAC Area.

The Greensboro-Winston Salem-High Point EAC Area attained the 1997 8-hour ozone NAAQS with a design value of 0.083 parts per million (ppm) using three years of quality assured data for the years of 2005-2007. On February 6, 2008, EPA proposed that 13 nonattainment areas with deferred effective dates, including the Greensboro-Winston Salem-High Point Area, be designated attainment for the 1997 8-hour ozone NAAQS. *See* 73 FR 6863. These areas met all of the milestones of the EAC program and demonstrated that they were in attainment of the 1997 8-hour ozone NAAQS as of December 31, 2007. In the same rulemaking, EPA also proposed that one year after the effective date of these designations, the 1-hour ozone NAAQS be revoked in these areas and the transportation conformity requirements for the 1-hour ozone NAAQS no longer remain in effect in these areas after the revocation. This rulemaking was

¹ An EAC is an agreement between a State, local governments and EPA to implement measures not necessarily required by the Act in order to achieve cleaner air as soon as possible. The program was designed for areas that approached or monitored exceedances of the 1997 8-hour ozone NAAQS, but were in attainment for the 1-hour ozone NAAQS. See, <http://www.epa.gov/ttn/naaqs/ozone/eac/index.htm>, for further information.

² A nonattainment-deferred EAC Area is an area that at the time of EPA's designation had a design value that exceeded the 1997 8-hour ozone NAAQS.

finalized on April 2, 2008. *See* 73 FR 17897. Effective April 15, 2008, the Greensboro-Winston Salem-High Point EAC Area was designated as attainment for the 1997 8-hour ozone NAAQS.

In accordance with section 110(a)(1) of the CAA and the Phase 1 Rule,³ North Carolina was required to submit a 10-year maintenance plan for the portion of the Greensboro-Winston Salem-High Point EAC Area that comprised the Triad Area (as a former 1-hour ozone maintenance area) within three years of the effective date (i.e., April 15, 2011) of the Area being designated attainment for the 1997 8-hour ozone NAAQS. On May 20, 2005, EPA issued guidance providing information on how a state might fulfill the maintenance plan obligation established by the CAA and the Phase 1 Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005- hereafter referred to as the “Wegman Memorandum”). On April 13, 2011, with supplemental information submitted on May 18, 2011, North Carolina provided revisions to EPA to meet the requirements for the 110(a)(1) maintenance plan for the Triad Area.

II. EPA’s Analysis of North Carolina’s Submittal

As mentioned above, on April 13, 2011, the State of North Carolina, through NCDENR submitted a SIP revision, with supplemental information submitted on May 18, 2011, containing the 1997 8-hour ozone maintenance plan for the Triad Area as required by section 110(a)(1) of

³ On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated EPA's Phase 1 Rule for the 1997 8-hour Ozone Standard. *South Coast Air Quality Management District. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). The Court vacated those portions of the Phase 1 Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 in lieu of Subpart 2 (of part D of the CAA), among other portions. The Court’s decision does not alter any requirements under the Phase 1 Rule for section 110(a)(1) maintenance plans.

the CAA and the provisions of EPA's Phase 1 Rule. *See* 40 CFR 51.905(a)(4). The purpose of the April 13, 2011, submission is to ensure continued attainment and maintenance of the 1997 8-hour ozone NAAQS until 2018 for this attainment area. The May 18, 2011, supplemental information contained Appendix C SESARM reference document, and Appendix D the Public Notice Report, which were both inadvertently left out of the original submittal.

As required, North Carolina's plan provides data showing continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the Triad Area for at least 10 years from the effective date of this Area's designation as attainment for the 1997 8-hour ozone NAAQS. The plan also includes components illustrating how the Area will continue attainment of the 1997 8-hour ozone NAAQS and provides contingency measures. The section 110(a)(1) maintenance plan components for the Triad Area are discussed below.

(a) *Attainment Inventory*. In order to demonstrate maintenance in the aforementioned area, North Carolina developed comprehensive inventories of volatile organic compounds (VOC) and nitrogen oxides (NO_x) emissions from area, point, on-road mobile, non-road mobile (including aircraft, locomotive and marine (ALM))⁴, and manmade emission sources using 2007 as the base year. According to the May 20, 2005, *Maintenance Plan Guidance Document for Certain 8-Hour Ozone Areas Under Section 110(a)(1) of the Clean Air Act*, a state may use one of the three years for which the 1997 8-hour attainment designation was based (2001, 2002 and 2003) as their attainment inventory base year. However, due to the fact that the Triad Area was an EAC area, the effective date of designation was deferred to April 15, 2008, and therefore consideration of a later base year of 2005, 2006, or 2007 was required for the purpose of an emissions inventory. *See* 69 FR 23857. For the purpose of this maintenance plan, North

⁴ No commercial marine vessels operate in Davidson, Davie, Forsyth or Guilford counties so there are no emissions reported for this category.

Carolina chose 2007 as the attainment level emissions base year for the Triad Area. The State's submittal contains the detailed inventory data and summaries by source category for the Triad Area.

In accordance with USEPA's Air Emissions Reporting Rule requirements, North Carolina compiles a statewide emissions inventory for point sources on an annual basis. Area source emissions are estimated by multiplying an emission factor by a known indicator like number of employees or population. On-road mobile emissions of VOC and NOx were estimated using the MOVES2010a mobile model. Non-road mobile emissions data were derived using the U.S. EPA's NONROAD 2008 model with the exception of railroad locomotives and aircraft engines that are estimated by using an emission factor.

In projecting data for the maintenance year 2018 emissions inventories, North Carolina used several methods to project data from the base year 2007 to the interim years 2011, and 2018. These projected inventories were developed using EPA-approved technologies and methodologies including the Southeastern Emissions Modeling, Analysis, and Planning methodology. Projected point, area, and non-road mobile source inventories were developed using the 2007 base year inventories and economic growth factors from EPA's Economic Growth and Analysis System.

The following tables provide VOC and NOx emissions data for the 2007 base attainment year inventories, as well as projected VOC and NOx emissions inventory data for 2010, 2014, and 2018. The Phase 1 Rule provides that the 10-year maintenance period begin as of the effective date of designation for the 1997 8-hour NAAQS for the Area. The designations for the 13 EAC attainment areas (of which the Greensboro-Winston Salem- High Point Area (inclusive

of the Triad Area) was one) were effective in April 2008 so the maintenance period must end no earlier than 2018.

Table 1. 2007 VOC and NO_x Base Year Emissions Inventory for the Triad Area (tons/day)

***Due to conventional rounding rules, emission totals listed in Tables 1 and 2 may not reflect the absolute mathematical totals.**

County	Point	Area	Onroad	Nonroad	Manmade	Total
	- VOC emissions -					
Davidson	3.83	6.83	6.60	1.97	19.23	38.46
Davie	0.19	4.68	1.85	1.32	8.04	16.08
Forsyth	4.03	16.53	12.05	3.79	36.4	54.54
Guilford	9.68	22.62	17.41	8.33	58.04	116.08
Total*	17.73	50.66	37.91	15.41	121.71	225.16

County	Point	Area	Onroad	Nonroad	Manmade	Total
	- NO _x emissions -					
Davidson	2.73	0.62	15.08	3.56	21.99	43.98
Davie	0.06	0.21	5.03	0.78	6.08	12.16
Forsyth	2.22	0.99	27.73	4.94	35.88	56.14
Guilford	1.06	2.01	42.78	11.83	57.68	115.36
Total*	6.07	3.83	90.62	21.11	121.63	227.64

Table 2. Projected VOC and NO_x Emissions Inventory for the Triad Area (tons/day)

***Due to conventional rounding rules, emission totals listed in Tables 1 and 2 may not reflect the absolute mathematical totals.**

Source Type	2007	2011	2018
	- NO _x emissions -		
Point	6.07	6.19	6.47
Area	3.83	3.87	3.88
Onroad	90.62	64.56	36.00
Nonroad	21.11	16.96	10.78
Manmade	121.63	91.58	57.13
Total*	243.26	183.16	114.26
-	- VOC emissions -		
Point	17.73	17.75	17.80

Area	50.66	54.96	64.53
Onroad	37.91	26.16	15.37
Nonroad	15.41	12.11	8.81
Manmade	121.71	110.98	106.51
Total*	243.42	221.96	213.02

As shown in Table 2 above, the Triad Area is projected to steadily decrease its total VOC and NO_x emissions from the base year of 2007 to the maintenance year of 2018. This VOC and NO_x emission decrease demonstrates continued attainment/maintenance of the 1997 8-hour ozone NAAQS for ten years from 2008 (the year the Area was effectively designated attainment for the 1997 8-hour ozone NAAQS) as required by the CAA and Phase 1 Rule. NO_x and VOC emissions are expected to decrease approximately 47 and 9 percent, respectively, from the attainment base year to 2018. These projected reductions of ozone precursors signal continued maintenance of the 1997 8-hour ozone NAAQS.

The attainment inventories submitted by North Carolina for this Area are consistent with the criteria as discussed in the Wegman Memorandum (For more information on the Wegman Memorandum see <http://www.epa.gov/ttn/oarpg/t1/memoranda/policymem33d.pdf>.) EPA finds that the future emission levels for the projected years 2011, and 2018, are expected to be less than the attainment level emissions in 2007. In the event that future 1997 8-hour ozone monitoring values in the Triad Area are found to violate the 1997 8-hour ozone NAAQS, the contingency plan section of the Triad Area's maintenance plan includes measures that will be promptly implemented to ensure that the Triad Area returns to attainment of the 1997 ozone NAAQS. Please see Section (d) Contingency Plan, below, for additional information related to the contingency measures in the maintenance plan.

(b) *Maintenance Demonstration.* The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in attainment with the 1997 8-hour ozone

standards for the 10-year period following the effective date of designation as unclassifiable/attainment. The required end projection year for the Triad Area is 2018. As discussed in Section (a) Attainment Inventory above, North Carolina identified the level of ozone-forming emissions that were consistent with attainment of the NAAQS for ozone in 2007. North Carolina projected VOC and NO_x emissions for 2011 and 2018. EPA finds that the future emissions levels in these years are expected to be below the emissions levels in 2007 in the Triad Area.

North Carolina's SIP revisions for the maintenance plan for the Triad Area also relies on a combination of several air quality measures that will provide for additional 1997 8-hour ozone emissions reductions in this Area. The Triad Area is also benefiting from the following reductions that are occurring in other states in the Southeast: (1) North Carolina Clean Smokestacks Act, (2) Atlanta/Northern Kentucky/Birmingham 1-hour SIPs, (3) NO_x reasonably available control technology in 1997 8-hour ozone nonattainment area SIP, and (4) implementation of NO_x SIP Call Phase 1 in southeastern states. Moreover, despite the legal status of the Clean Air Interstate Rule (CAIR) as remanded, many facilities have already installed or are continuing with plans to install emission controls that may benefit the Triad Area.

(c) *Consideration of CAIR.* The NO_x SIP Call requires states to make significant, specific emissions reductions. It also provided a mechanism, the NO_x Budget Trading Program, which states could use to achieve those reductions. When EPA promulgated CAIR, it discontinued (starting in 2009) the NO_x Budget Trading Program, 40 CFR 51.121(r), but created another mechanism – the CAIR NO_x ozone season trading program – which states could use to meet their SIP Call obligations (70 FR 25289-90). EPA notes that a number of states, when submitting SIP revisions to require sources to participate in the CAIR NO_x ozone season trading

program, removed the SIP provisions that required sources to participate in the NO_x Budget Trading Program.

In 2008, the US Court of Appeals for the DC Circuit remanded CAIR to the Agency, leaving existing CAIR programs in place while directing EPA to replace them as rapidly as possible with a new rule consistent with the CAA. Therefore, the provisions of CAIR, including the NO_x ozone season trading program, remain in place during the remand (*North Carolina v. EPA*, 550 F.3d 1176 (D.C. Cir. 2008)), and continue to satisfy the trading requirements of the NO_x SIP Call, as EPA is no longer administering the NO_x Budget Trading Program. Nonetheless, all states, regardless of the current status of their regulations that previously required participation in the NO_x Budget Trading Program, will remain subject to all of the requirements in the NO_x SIP Call, even when the existing CAIR NO_x ozone season trading program is replaced by the Cross State Air Pollution Rule (CSAPR) in 2012. That rule, promulgated on July 6, 2011, replaces and strengthens the 2005 CAIR trading programs, and meets the CAA requirements and responds to the court's concerns. In addition, the anti-backsliding provisions of 40 CFR 51.905(f) specifically provide that the provisions of the NO_x SIP Call, including the statewide NO_x emission budgets, continue to apply after revocation of the 1-hour standards.

All NO_x SIP Call states, including North Carolina, have SIPs that currently satisfy their obligations under the SIP Call, and the SIP Call reduction requirements are being met. EPA will continue to enforce the requirements of the NO_x SIP Call even after the CSAPR takes effect. For these reasons, EPA believes that regardless of the status of the CAIR and CSAPR programs, the NO_x SIP call requirements can be relied upon in demonstrating maintenance.

(d) *Ambient Air Quality Monitoring.* The table below shows design values⁵ for the Triad Area. The ambient ozone monitoring data were collected at sites that were selected with assistance from EPA and are considered representative of the areas of highest concentration. The State of North Carolina will continue to conduct ambient air quality monitoring programs for ozone in the Triad Area. All monitoring programs will continue in accordance with applicable EPA monitoring requirements contained in 40 CFR Part 58. Any modification to the ambient air monitoring network will be accomplished through close consultation with EPA. The Triad Area has not had a monitored design value that exceeded the 1997 8-hour NAAQS since the 2002-2004 design value time-period as seen in Table 3.⁶

Table 3. Maximum 8-Hour Ozone Design Values for the Triad Area (ppm)

Years	Design Value
2001-2003	0.093
2002-2004	0.087
2003-2005	0.082
2004-2006	0.081
2005-2007	0.083
2006-2008	0.082
2007-2009	0.079
2008-2010	0.076

The maximum design value for 2008 through 2010 identified in Table 3 demonstrates attainment of the 1997 8-hour ozone NAAQS at a level of 0.076 ppm. Further, these design values indicate that the Triad Area is expected to continue attainment of the 1997 8-hour ozone

⁵ The air quality design value at a monitoring site is defined as the concentration that when reduced to the level of the standard ensures that the site meets the standard. For a concentration-based standard, the air quality design value is simply the standard-related test statistic. Thus, for the primary and secondary 1997 8-hour ozone standards, the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration is also the air quality design value for the site. 40 CFR 50, Appendix I, Section 3.

⁶ Under EPA regulations found at 40 CFR part 50, the 1997 8-hour ozone NAAQS are attained when the 3-year average of the annual fourth-highest daily maximum 8-hour ambient air quality ozone concentrations is less than 0.08 parts per million (i.e. 0.084 when rounding is considered).

NAAQS based on a gradual decrease in the design values. The attainment level for the 1997 8-hour ozone standards is 0.08 ppm, effectively 0.084 ppm with the rounding convention. In the event that a design value for the Triad Area monitors exceed the 1997 8-hour ozone standards, one or more contingency measures included in North Carolina's maintenance plan would be promptly implemented in accordance with the contingency plan, as discussed below.

(e) *Contingency Plan.* In accordance with 40 CFR 51.905(a)(4)(ii) and the Wegman Memorandum, the section 110(a)(1) maintenance plan includes contingency provisions to promptly correct a violation of the 1997 8-hour ozone NAAQS that may occur. The State of North Carolina has established three triggers to activate contingency measures including: (1) a violation of the 1997 ozone NAAQS at any of the Triad area monitors, (2) monitored ozone levels indicating that an actual ozone NAAQS violation is imminent, and (3) a monitored fourth high exceedance of 1997 8-hour ozone NAAQS at any monitor. In the maintenance plan, if contingency measures are triggered, North Carolina has committed to implement the measures as expeditiously as practicable, including adopting one or more contingency measures as expeditiously as practical and implementing the measures within 24 months of the triggering event. The State's contingency measures include: (1) NO_x Reasonably Available Control Technology on stationary sources in the Triad maintenance area; (2) diesel inspection and maintenance program; (3) implementation of diesel retrofit programs, including incentives for performing retrofits; and, (4) additional controls in upwind areas.

These contingency measures and schedules for implementation satisfy EPA's long-standing guidance on the requirements of section 110(a)(1) of continued attainment. Continued attainment of the 1997 8-hour ozone NAAQS in the Triad Area will depend, in part, on the air quality measures discussed previously (see section II). In addition, North Carolina commits to

verify the 1997 8-hour ozone status in this maintenance plan through periodic ozone precursor emission inventory updates. Emission inventory updates will be completed by 18 months following the end of the inventory year to verify continued attainment of the 1997 8-hour ozone NAAQS.

III. Final Action

Pursuant to section 110(a)(1) of the CAA, EPA is approving the maintenance plan addressing the 1997 8-hour ozone NAAQS in the Triad Area, submitted by the State of North Carolina, through NCDENR, on April 13, 2011, with supplemental information submitted on May 18, 2011. The maintenance plan ensures continued attainment of the 1997 8-hour ozone NAAQS through the maintenance year 2018. EPA has evaluated North Carolina's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy. On March 12, 2008, EPA issued revised ozone NAAQS. The current action, however, is being taken to address requirements under the 1997 8-hour ozone NAAQS.

EPA is publishing this rule without prior proposal because the Agency views this as a non-controversial amendment and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comment be filed. This rule will be effective on [Insert date 60 days from date of publication] without further notice unless the Agency receives adverse comment by [Insert date 30 days from date of publication]. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will

then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised this rule will be effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after

it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Intergovernmental relations, Incorporation by reference, Nitrogen dioxides, Reporting and recordkeeping requirements, and Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: January 12, 2012.

A. Stanley Meiburg,

Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52--[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. Section 52.1770(e) is amended by adding new entries for “1997 8 Hour Ozone 110(a)(1) Maintenance Plan for the Triad Area” and “Supplement to 110(a)(1) Maintenance Plan for the Triad Area” to read as follows at the end of the table:

§ 52.1770 Identification of plan.

* * * * *

(e) * * *

EPA Approved North Carolina Non-Regulatory Provisions

Provision	State effective date	EPA approval date	Federal Register citation
* * *	* *	*	*
1997 8 Hour Ozone 110(a)(1) Maintenance Plan for the Triad Area.	4/13/11	[Insert date 60 days from date of publication of this document in the <u>Federal Register</u>].	[Insert citation of publication]

Provision	State effective date	EPA approval date	Federal Register citation
Supplement to 110(a)(1) Maintenance Plan for the Triad Area.	5/18/2011	[Insert date 60 days from date of publication of this document in the <u>Federal Register</u>].	[Insert citation of publication]

[FR Doc. 2012-1360 Filed 01/24/2012 at 8:45 am; Publication Date: 01/25/2012]